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October 16, 1995

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FEDERAL COMMUNICATIONS COMMISSION OFFICE OF SECRETARY

Mr. William F. Caton Acting Secretary Federal Communications Commission Washington, D.C. 20554

Re:

MM Docket No. 93-48

Dear Mr. Caton

DOCKET FILE COPY ORIGINAL

Submitted herewith on behalf of Golden Orange Broadcasting Co., Inc., licensee of Television Broadcast Station KDOC-TV, Anaheim, California, are an original and four copies of its Comments in response to a Notice of Proposed Rulemaking (FCC 95-143), released April 7, 1995, in the above-captioned proceeding concerning proposals to amend the Commission's Rules implementing the Children's Television Act of 1990.

Very truly yours

Richard A. Helmick

Enclosure

cc w/encl.:

Chairman Reed E. Hundt

Hon. James H. Quello Hon. Andrew C. Barrett Hon. Rachelle B. Chong

Hon. Susan Ness

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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Federal Communications Commission

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To: The Commission

COMMENTS OF GOLDEN ORANGE BROADCASTING CO., INC.

Golden Orange Broadcasting Co., Inc. ("Golden Orange"), licensee of Television Broadcast Station KDOC-TV, Anaheim, California (independent, Channel 56), through its counsel and pursuant to Section 1.415 of the Commission's Rules, hereby submits its comments in response to a Notice of Proposed Rulemaking ("NPRM") (FCC 95-143), released April 7, 1995 in the above-captioned proceeding concerning proposals to amend the Commission's Rules implementing the Children's Television Act of 1990 ("CTA"). In support thereof, the following is set forth.

1. "Core" Educational Programming. Section 73.671 of the rules requires each commercial television licensee to serve the "educational and informational" needs of children through its overall programming as well as programming specifically designed to serve such needs; moreover, "educational and informational" television programming is defined as "programming which furthers the positive development of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs." Although a station must air some standard length programming specifically designed for children 16 years of age or under, in

all other respects stations are free to serve the educational and informational needs of children as they see fit without Commission oversight or editorial control as to the amount, time of day, duration, or type of such programming.

- 2. Based in large part on an informal review of approximately 320 license renewal applications, the Commission is of the opinion that the level of educational programming performance by stations is not "consistent with the CTA's long-term objectives" and that some stations have "misidentified certain programs as contributing to their compliance under the CTA." NPRM, paragraphs 14 and 18. In order to redress this perceived deficiency on the part of some stations and to eliminate uncertainty as to the scope of their obligations to serve the educational and informational needs of children, the Commission would narrow its definition of "core" educational programs, i.e., programming specifically designed to serve educational and informational needs of children.
- 3. The Commission proposes to classify as "core" educational programming only those programs which (1) have a "significant" educational purpose, i.e., education must be more than an "incidental" goal, (2) specify the educational objective and "target child audience" in the station's public inspection file documentation, (3) are aired between 6:00 a.m. and 11:00 p.m., (4) are regularly scheduled, (5) are of substantial length, i.e., at least 15 or 30 minutes, and (6) are identified as an educational children's show both on air (by an icon or similar means) and in the advance information provided to program guide publications. Accordingly, special and vignette programs, e.g., usually five minutes or less in length, and programs which have a significant entertainment function would be categorically excluded from "core" educational programming.

- 4. As to the first element of the proposed "core" educational program criteria, Golden Orange submits that defining such programming as that which has a significant and non-incidental educational purpose does not clarify or make objective an inherently subjective determination, but, rather, would unnecessarily entangle the Commission in a station's good faith program decisions. The Commission has neither the resources nor the expertise to pass editorial judgment on the educational value of children's television programming and licensees should not be put in the position of trying to divine what the Commission's subjective evaluation of a station's children programming will be.
- 5. Golden Orange agrees with the comments of the Walt Disney Company in the Notice of Inquiry ("NOI") portion of this proceeding. See NPRM, paragraph 30. Core educational programming should include those programs which have education as a "significant purpose" but not necessarily as a "primary" objective. To be effective, children's programming must be entertaining in order to attract an audience and any attempt to emphasize the educational over the entertainment value is counterproductive and merely creates a "false dichotomy" between education and entertainment.
- 6. Elements (4) through (6) of the Commission's proposed "core" educational programming definition, requiring such programming to be regularly scheduled, of substantial length and identified as educational programming, both on air and in program guides, are also ill-advised, particularly as they reflect the Commission's bias for substantial length <u>vis</u> <u>a</u> <u>vis</u> vignette programming. The Commission has apparently endorsed the NOI comments of Dr. Dale Kunkel; Dr. Kunkel contends that scientific data demonstrates standard length programming is more educational than short segments and that the attention span of young children is not too limited for

30 minute programs. Moreover, as standard length programs are generally listed in program guides, Kunkel maintains parents and children would have a greater opportunity to select such programming if desired. NPRM, paragraph 31.

- 7. Golden Orange submits that the issue is not the adequacy of children's attention span as Dr. Kunkel contends but, rather, the "boredom" factor. Generally, children become bored watching a program quicker than any other group of viewers; that boredom is alleviated by a touch of the television remote control button and selection of another channel to view (or simply by the child getting up and leaving the room to pursue other activities). What is the value of a regularly scheduled standard length program and advanced listings in program guides if such programming cannot attract viewers? For example, Golden Orange broadcasts <u>Froozels</u>, an award winning locally produced educational children's show from 3:00 to 3:30 p.m., Monday through Friday, and 12:30 to 1:00 p.m. on Saturdays, which would meet all the proposed criteria for "core" educational programming but which does not enjoy high viewership among children.
- 8. Golden Orange believes that the strongest educational asset available to television stations is the vignette program which the Commission would exclude from "core" educational programming under its proposal. A three, four or five minute educational vignette placed inside a widely viewed children's program may have more educational value than would a standard length regularly scheduled program which is "primarily" educational in nature. Since vignette children's program can be just as effective or more effective than regularly scheduled standard length children's programming, Golden Orange submits that there should be no distinction or prejudicial treatment given these two types of programming. Golden Orange does, however, endorse the Commission's

current requirement that stations broadcast some regularly scheduled standard length children's programs.

- 9. The Commission must keep its focus on substance rather than form. The goal should be to present educational children's programming which is attractive and viewed by the target audience. To this end, Golden Orange urges that the Commission treat children's vignette programming as the equivalent of full length programming. Thus, for example, a two minute vignette within a 30 minute program should receive the same credit as if it were a 30 minute program. Such treatment would also encourage stations to broadcast children's programming during hours or within programs when the children's audience can be expected to be greatest.
- 10. Proposed Monitoring or Quantitative Program Standards. In an effort to increase the amount of educational programming for children over that which is currently being aired, the Commission has proposed one of three courses of actions. NPRM, paragraph 7. The first would involve monitoring the amount of broadcast programming specifically designed to serve the educational and informational needs of children for a specified period of time, such as three years. Stations would be required to submit annual descriptions of their educational and informational programming and at the end of the specified period the Commission would assess the need for further regulatory action.
- 11. The second course of action would be to establish a "safe harbor" quantitative processing guideline which would specify an amount of programming specifically designed to serve the educational and informational needs of children, such as three hours per week. So long as a station met the quantitative safe harbor standard, the Commission staff would have delegated

authority to grant that station a license renewal; if the guideline was not met, the renewal application would be referred to the full Commission for consideration.

- 12. The third course of action would be to establish a processing guideline requiring three hours per week of "core" children's educational and informational programming; this quantitative standard would be a mandatory minimum standard. Stations which failed to meet the processing guideline would not only have their renewal applications referred to the Commission but would also be subject to sanctions, absent a compelling demonstration by the licensee that its failure to meet the quantitative programming standard should be excused for public interest reasons.
- 13. Of the three courses of proposed action, Golden Orange believes that the least intrusive would be to monitor the programming efforts of stations over a three year period, thereby providing stations with an opportunity to continue and expand their service to children. In the event, however, that the Commission establishes a "safe harbor" quantitative processing guideline or a minimum programming standard, the Commission should make provision to ensure that educational and informational vignettes are given full parity with regularly scheduled standard length educational and informational children's programming.
- 14. <u>Credit for Sponsorship of Programs on Other Stations</u>. The Commission has proposed that, in connection with either suggested quantitative guidelines or program standards, stations be allowed to take credit for "core" educational children's programming which they sponsor on another station in the market. However, the Commission believes that every station should be required to air at least some children's educational programming on its own; it has proposed that each station be required to air a minimum of one hour per week of "core" children's educational programming while satisfying any remaining obligation under either the proposed quantitative

processing guideline or program standard through sponsorship of educational children's programming on other stations in the market. Current FCC rules would permit both the station which broadcasts the program and the station which sponsors the program to claim credit for the program.

- 15. Golden Orange submits that the Commission's current policy of permitting dual credit to both the broadcasting station as well as the sponsoring station should not be construed as "double counting"; accordingly, it would oppose changing the current rules so as to award credit only to the station which sponsors the program and not to the station which actually airs it. Stations should be awarded credit for sponsoring programs on any station, commercial or noncommercial, provided that the Grade B service area of the broadcasting station overlaps at least 50% of the Grade B service area of the sponsoring station.
- has proposed to expand the scope of documentation stations are currently required to maintain in their public inspection files regarding educational and informational children's programming; the new information would include (1) an explanation of how each "core" children's educational program satisfies the proposed new definition of "core" children's educational programming discussed above, (2) the name and address or telephone number of the person at the station who is responsible for compliance with children's educational programming requirements, and (3) a statement of the educational objective of the target child audience, i.e., age group, of each "core" children's educational program identified in the public file materials. The Commission has also proposed to require that the materials dealing with children's educational programming be segregated within the public inspection file for ease of inspection. In addition, the Commission has

asked whether the current rule allowing stations to prepare children's educational programming public inspection file lists on either a quarterly or an annual basis should be changed to require all stations to prepare such materials on a quarterly basis.

17. For the reasons discussed above, Golden Orange is generally opposed to requiring stations to identify children's "core" educational programming; with that one exception, however, Golden Orange generally supports the other public inspection file proposals of the Commission. Moreover, because Golden Orange favors the Commission's continued monitoring of stations' efforts to broadcast educational and informational programming for children, in order to facilitate those monitoring efforts, it supports a requirement that stations continue to document their children's programming efforts in the license renewal application.

Respectfully submitted

GOLDEN ORANGE BROADCASTING CO., INC.

By:

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October 16, 1995